

PART 505—REGULATIONS PROHIBITING TRANSACTIONS INVOLVING THE SHIPMENT OF CERTAIN MERCHANDISE BETWEEN FOREIGN COUNTRIES

1. The authority citation for part 505 is revised to read as follows:

Authority: 50 U.S.C. App. 1–44; E.O. 9193, 7 FR 5205, 3 CFR, 1938–1943 Comp., p. 1174; E.O. 9989, 13 FR 4891, 3 CFR, 1943–1948 Comp., p. 748.

2. Paragraph (b), preceding the “Schedule,” of § 505.10 is revised to read as follows:

§ 505.10 Prohibitions.

* * * * *

(b) The merchandise is of a type the unauthorized exportation of which from the United States is prohibited by regulations issued under the Arms Export Control Act of 1976, 22 U.S.C. 2778, or the Atomic Energy Act of 1954, 42 U.S.C. 2011–2297g–4, or successor acts restricting the exportation of strategic goods.

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3. Paragraphs (a) introductory text and (a)(1) of § 505.31 are revised to read as follows:

§ 505.31 General license for offshore transactions from certain countries.

(a) Except as provided in paragraph (b) of this section, all transactions prohibited by § 505.10 are hereby authorized provided:

(1) Shipment is to a country listed in the schedule to § 505.10, other than North Korea; and

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Dated: June 14, 1995.

R. Richard Newcomb,

Director, Office of Foreign Assets Control.

Approved: June 16, 1995.

John P. Simpson,

Deputy Assistant Secretary (Regulatory, Tariff and Trade Enforcement).

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31 CFR Part 585

Federal Republic of Yugoslavia (Serbia and Montenegro) Sanctions Regulations; Bosnian Serb Sanctions

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Final rule; amendments.

SUMMARY: This rule amends the Federal Republic of Yugoslavia (Serbia and Montenegro) Sanctions Regulations to: Implement Executive Order 12934 of October 25, 1994, imposing sanctions on the Bosnian Serb forces and authorities

and the areas of the Republic of Bosnia and Herzegovina that they control, in view of United Nations Security Council Resolution No. 942; provide an agency interpretation of the new prohibitions as preventing certain financial services to the areas of the Republic of Bosnia and Herzegovina under the control of Bosnian Serb forces and to entities worldwide owned or controlled from such areas; make additional conforming amendments to reflect the implementation of Executive Order 12846 of April 25, 1993; and make certain clarifying and technical amendments.

EFFECTIVE DATE: June 30, 1995.

FOR FURTHER INFORMATION CONTACT:

Steven I. Pinter, Chief of Licensing, tel.: 202/622–2480, or William B. Hoffman, Chief Counsel, tel.: 202/622–2410, Office of Foreign Assets Control, Department of the Treasury, Washington, DC 20220.

SUPPLEMENTARY INFORMATION:

Electronic Availability

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Background

On October 25, 1994, the President issued Executive Order 12934, 59 FR 54117 (October 27, 1994), expanding the scope of the national emergency declared in Executive Order 12808 to extend certain sanctions to the Bosnian Serb forces and authorities and the areas of the Republic of Bosnia and Herzegovina that they control, taking into account the provisions of United Nations Security Council Resolution No. 942 of September 23, 1994. Effective October 25, 1994, the Executive order blocks all property and interests in property of the Bosnian Serb military and paramilitary forces and the authorities in those areas of the

Republic of Bosnia and Herzegovina under the control of Bosnian Serb forces; entities organized or located in those areas; entities owned or controlled directly or indirectly by any person in, or resident in, those areas; and any person acting for or on behalf of any of the above. A partial listing of such persons was published on April 18, 1995. 60 FR 19448. The part heading is revised to read: “The Federal Republic of Yugoslavia (Serbia and Montenegro) and the Bosnian Serb–Controlled Areas of the Republic of Bosnia and Herzegovina Sanctions Regulations, 31 CFR part 585 (the “Regulations”),” and § 585.201 of the Regulations is amended to implement this provision. E.O. 12934, section 1.

Section 585.217 of the Regulations is amended to implement the Executive order’s prohibition in section 2(b) against the entry of U.S.–flag vessels into the riverine ports of those areas of the Republic of Bosnia and Herzegovina controlled by Bosnian Serb forces. Section 585.218 of the Regulations, which already prohibits exportation to, importation from, and transshipment through those areas of the Republic of Bosnia and Herzegovina controlled by Bosnian Serb forces, is amended to reflect the Executive order’s prohibition in section 2(a) against the provision or exportation of services to those areas or to any person for the purpose of any business carried on in those areas, either from the United States or by a U.S. person.

The prohibitions of Executive Order 12934 apply notwithstanding any prior contracts, international agreements, licenses or authorizations, but may be modified by regulation, order or license issued pursuant to that Executive order.

In addition to implementing the provisions of Executive Order 12934, this final rule amends several provisions of the Regulations pertaining to property interests blocked under § 585.201 by substituting a simple reference to “property or interests in property blocked pursuant to § 585.201” for a lengthy list of all persons whose property interests are blocked pursuant to Executive Orders 12808, 12810, 12846, or 12934.

Section 585.420 is added interpreting new §§ 585.201(c) and 585.218(b) of the Regulations to prohibit the transfer of funds by U.S. financial institutions to or for the benefit of persons whose property and interests in property are blocked pursuant to § 585.201(c), on the basis that such transfers are blocked by operation of law upon their initiation, and that such transfers involve an illegal exportation of financial services from

the United States or by a United States person.

Finally, paragraph (c) of § 585.512 of the Regulations, which states that charge cards may not be used by U.S. persons authorized to engage in certain travel-related transactions under this section while in the FRY (S&M), is amended to clarify (but not modify) the authorizations contained in that section.

Because the Regulations involve a foreign affairs function, Executive Order 12866 and the provisions of the Administrative Procedure Act, 5 U.S.C. 553, requiring notice of proposed rulemaking, opportunity for public participation, and delay in effective date, are inapplicable. Because no notice of proposed rulemaking is required for this rule, the Regulatory Flexibility Act, 5 U.S.C. 601-612 does not apply.

List of Subjects in 31 CFR Part 585

Administrative practice and procedure, Banks, banking, Foreign investments in United States, Foreign trade, Penalties, Reporting and recordkeeping requirements, Securities, Transportation, Yugoslavia.

For the reasons set forth in the preamble, 31 CFR part 585 is amended as set forth below:

1. The heading to part 585 is revised to read as follows:

PART 585—FEDERAL REPUBLIC OF YUGOSLAVIA (SERBIA AND MONTENEGRO) AND BOSNIAN SERB-CONTROLLED AREAS OF THE REPUBLIC OF BOSNIA AND HERZEGOVINA SANCTIONS REGULATIONS

2. The authority citation for part 585 is revised to read as follows:

Authority: 3 U.S.C. 301; 22 U.S.C. 287c; 49 U.S.C. 40106(b); 50 U.S.C. 1601-1651; 50 U.S.C. 1701-1706; E.O. 12808, 57 FR 23299, 3 CFR, 1992 Comp., p. 305; E.O. 12810, 57 FR 24347, 3 CFR, 1992 Comp., p. 307; E.O. 12831, 58 FR 5253, 3 CFR, 1993 Comp., p. 576; E.O. 12846, 58 FR 25771, 3 CFR, 1993 Comp., p. 599; E.O. 12934, 59 FR 54117 (October 27, 1994).

Subpart B—Prohibitions

3. Section 585.201 is amended as follows: In paragraph (a) by removing "are" wherever it appears and adding "is"; by removing "come" wherever it appears and adding "comes"; by redesignating paragraph (c) as paragraph (d); and by adding new paragraph (c) to read as follows:

§ 585.201 Prohibited transactions involving blocked property; transactions with respect to securities.

* * * * *

(c) Except as otherwise authorized, and notwithstanding the existence of any rights or obligations conferred or imposed by any international agreement or any contract entered into or any license or permit granted before 11:59 p.m. EDT, October 25, 1994, no property or interest in property of the following persons that is in the United States, that hereafter comes within the United States, or that is or hereafter comes within the possession or control of United States persons, including their overseas branches, may be transferred, paid, exported, withdrawn, or otherwise dealt in:

(1) The Bosnian Serb military and paramilitary forces and the authorities in those areas of the Republic of Bosnia and Herzegovina under the control of those forces;

(2) Any entity, including any commercial, industrial, or public utility undertaking, organized or located in those areas of the Republic of Bosnia and Herzegovina under the control of Bosnian Serb forces;

(3) Any entity, wherever organized or located, which is owned or controlled directly or indirectly by any person in, or resident in, those areas of the Republic of Bosnia and Herzegovina under the control of Bosnian Serb forces; and

(4) Any person acting for or on behalf of any person included within the scope of paragraphs (c)(1), (2) or (3) of this section.

4. Paragraphs (a), (b), and (e) of § 585.202 are revised to read as follows:

§ 585.202 Effect of transfers violating the provisions of this part.

(a) Any transfer after the effective date specified in § 585.301 which is in violation of any provision of this part or of any regulation, order, directive, ruling, instruction, license, or other authorization hereunder and involves any property or interest in property blocked pursuant to § 585.201 is null and void and shall not be the basis for the assertion or recognition of any interest in or right, remedy, power or privilege with respect to such property or property interests.

(b) No transfer before the effective date shall be the basis for the assertion or recognition of any right, remedy, power, or privilege with respect to, or interest in, any property or interest in property blocked pursuant to § 585.201, unless the person with whom such property is held or maintained, prior to such date, had written notice of the

transfer or by any written evidence had recognized such transfer.

* * * * *

(e) Unless licensed or authorized pursuant to this part, any attachment, judgment, decree, lien, execution, garnishment, or other judicial process is null and void with respect to any property or interest in property blocked pursuant to § 585.201.

§ 585.203 [Amended]

5. Section 585.203 is amended as follows: In paragraph (a)(2) by removing "entity of the FRY (S&M)" and adding "person(s)" in its place, and in paragraph (c) by revising the first sentence to read as follows: "U.S. financial institutions receiving instructions to execute a payment or transfer of funds they hold in which a person has an interest whose property or interests in property are blocked pursuant to § 585.201, shall block the funds and provide written notification to the Compliance Programs Division, Office of Foreign Assets Control, U.S. Treasury Department, 1500 Pennsylvania Ave., NW—2131 Annex, Washington, DC 20220, within 10 business days from the value date of the payment or transfer."

6. Section 585.217 is revised to read as follows:

§ 585.217 Entry into the territorial waters of the FRY (S&M) or the riverine ports of the Republic of Bosnia and Herzegovina prohibited.

Except as otherwise authorized by the Director of the Office of Foreign Assets Control pursuant to this part, no vessel registered in the United States or owned or controlled by U.S. persons, other than a United States naval vessel, may enter:

(a) The territorial waters of the FRY (S&M); or

(b) The riverine ports of those areas of the Republic of Bosnia and Herzegovina under the control of Bosnian Serb forces.

7. Section 585.218 is revised to read as follows:

§ 585.218 Trade in United Nations Protected Areas of Croatia and those areas of the Republic of Bosnia and Herzegovina under the control of Bosnian Serb forces.

The following are prohibited, except as otherwise authorized by the Director of the Office of Foreign Assets Control pursuant to this part:

(a) Any dealing by a United States person relating to the importation from, exportation to, or transshipment of goods through the United Nations Protected Areas in the Republic of Croatia and those areas of the Republic of Bosnia and Herzegovina under the control of Bosnian Serb forces, or

activity of any kind that promotes or is intended to promote such dealing (see § 585.524); and

(b) The provision or exportation of services to those areas of the Republic of Bosnia and Herzegovina under the control of Bosnian Serb forces, or to any person for the purpose of any business carried on in those areas, either from the United States or by a United States person.

Subpart C—General Definitions

8. Section 585.301 is amended as follows: In paragraph (a) by removing the reference “§§ 585.201 (a) & (c)” and adding “§§ 585.201 (a) and (d)” in its place; in paragraph (e) by adding “(a)” after the references to “585.217” and “585.218”; and by removing “and” from the end of paragraph (d) and the period from the end of paragraph (e), by adding a semicolon and “and” to the end of paragraph (e), and by adding a new paragraph (f) to read as follows:

§ 585.301 Effective date.

* * * * *

(f) With respect to §§ 585.201(c), 585.217(b), and 585.218(b), 11:59 p.m. EDT, October 25, 1994.

9. Section 585.302 is revised to read as follows:

§ 585.302 Blocked account; blocked property.

The terms *blocked account* and *blocked property* shall mean any account and any property or interest in property blocked pursuant to § 585.201 with respect to which payments, transfers, exportations, withdrawals, or other dealings may not be made or effected except pursuant to an authorization or license from the Office of Foreign Assets Control authorizing such action.

Subpart D—Interpretations

10. Section 585.403 is revised to read as follows:

§ 585.403 Termination and acquisition of an interest in blocked property.

(a) Whenever a transaction licensed or authorized by or pursuant to this part results in the transfer of property (including any property interest) from a person whose property or property interests are blocked pursuant to § 585.201, such property shall no longer be deemed to be property blocked pursuant to § 585.201, unless there exists in the property another interest that is blocked pursuant to § 585.201 or any other part of this chapter, the transfer of which has not been effected pursuant to license or other authorization.

(b) Unless otherwise specifically provided in a license or authorization issued pursuant to this part, if property (including any property interest) is transferred or attempted to be transferred to a person whose property or property interests are blocked pursuant to § 585.201, such property shall be deemed to be property in which that person has an interest and therefore blocked.

§ 585.405 [Amended]

11. Section 585.405 is amended by removing “the Government of the FRY (S&M) or the former Government of the Social Federal Republic of Yugoslavia,” and adding “a person whose property or interests in property are blocked pursuant to § 585.201”, and by removing “and” between the references to “§ 585.201” and “§§ 585.204–585.212”, adding a comma in its place, and adding “and §§ 585.217–585.218” to the end of the first sentence.

12. Paragraph (a) of § 585.406 is revised to read as follows:

§ 585.406 Extensions of credits or loans.

(a) The prohibition in § 585.210 applies to the unlicensed renewal of credits or loans held in the name of a person whose property or interests in property are blocked pursuant to § 585.201 that were in existence on the effective date, whether by affirmative action or operation of law.

* * * * *

13. Paragraph (a) of § 585.408 is revised to read as follows:

§ 585.408 Offshore transactions.

(a) The prohibitions contained in §§ 585.201 and 585.206 apply to transactions by U.S. persons in locations outside the United States with respect to property in which the U.S. person knows, or has reason to know, that a person whose property or interests in property are blocked pursuant to § 585.201 has or has had an interest since the effective date specified in § 585.301, or that such property is held in the name of a person whose property or interests in property are blocked pursuant to § 585.201.

* * * * *

14. The note to § 585.412 is revised to read as follows:

§ 585.412 Release of goods originating in the FRY (S&M) from a bonded warehouse or foreign trade zone.

* * * * *

(Note: property blocked pursuant to § 585.201 may not be released unless authorized or licensed by the Office of Foreign Assets Control.)

§ 585.413 [Amended]

15. Section 585.413 is amended by revising the second sentence to read as follows: “However, any payment in connection with such importation is subject to the prohibitions contained in §§ 585.201 and 585.210.”.

16. Section 585.420 is added to subpart D to read as follows:

§ 585.420 Prohibited transfer of funds involving those areas of the Republic of Bosnia and Herzegovina under the control of Bosnian Serb forces.

Sections 585.201(c) and 585.218(b) prohibit U.S. financial institutions from committing or transferring, directly or indirectly, funds or other financial or economic resources to or for the benefit of any person whose property or interests in property are blocked pursuant to § 585.201(c).

Subpart E—Licenses, Authorizations, and Statements of Licensing Policy

17. The introductory text and paragraph (c) of § 585.504 are revised to read as follows:

§ 585.504 Investment and reinvestment of certain funds.

U.S. financial institutions are hereby authorized to invest and reinvest assets blocked pursuant to § 585.201, subject to the following conditions:

* * * * *

(c) No immediate financial or economic benefit accrues (e.g., through pledging or other use) to any person whose property or interests in property are blocked pursuant to § 585.201.

18. Paragraphs (a) and (b) of § 585.505 are revised to read as follows:

§ 585.505 Completion of certain transactions related to bankers acceptances authorized.

(a) Persons other than those whose property or interests in property are blocked pursuant to § 585.201 are authorized to buy, sell, and satisfy obligations with respect to bankers acceptances, and to pay under deferred payment undertakings, relating to a property interest blocked pursuant to § 585.201, as long as the bankers acceptances were created or the deferred payment undertakings were incurred prior to the effective date.

(b) Persons other than those whose property or interests in property are blocked pursuant to § 585.201 are authorized to buy, sell, and satisfy obligations with respect to bankers acceptances, and to pay under deferred payment undertakings, relating to the importation or exportation of goods to or from the FRY (S&M) that do not involve a property interest blocked

pursuant to § 585.201, as long as the bankers acceptances or the deferred payment undertakings were accepted prior to the effective date.

* * * * *

19. The section heading and paragraphs (a) and (b) of § 585.506 are revised to read as follows:

§ 585.506 Payments of obligations to persons within the United States authorized.

(a) The transfer of funds after the effective date by, through, or to any U.S. financial institution or other U.S. person not blocked pursuant to this chapter solely for the purpose of payment of obligations of a person whose property or interests in property are blocked pursuant to § 585.201 to persons or accounts within the United States is authorized, provided that the obligation arose prior to the effective date, and the payment requires no debit to a blocked account. Property is not blocked by virtue of being transferred or received pursuant to this section.

(b) A person receiving payment under this section may distribute all or part of that payment to any person, provided that any such payment to a person whose property or interests in property are blocked pursuant to § 585.201 must be to a blocked account in a U.S. financial institution.

* * * * *

§ 585.512 [Amended]

20. Paragraph (c) of § 585.512 is amended by removing “, or to engage in transactions, while traveling in the FRY (S&M).” and by adding “in the FRY (S&M) in connection with any transactions authorized by this section.” in its place.

§ 585.524 [Amended]

21. The section heading of § 585.524 is amended by removing “Serb-controlled areas of Bosnia-Herzegovina” and adding “those areas of the Republic of Bosnia and Herzegovina controlled by Bosnian Serb forces” in its place. Paragraphs (a) and (b) of § 585.524 are amended by removing “Bosnia-Herzegovina” wherever it appears and adding “Bosnia and Herzegovina” in its place.

Dated: June 23, 1995.

R. Richard Newcomb,

Director, Office of Foreign Assets Control.

Approved: June 23, 1995.

John P. Simpson,

Deputy Assistant Secretary (Regulatory, Tariff and Trade Enforcement).

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DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Parts 1, 23, and 177

[CGD 95-057]

RIN 2115-AF20

Clarification of Coast Guard Rulemaking Procedures

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is revising the regulations describing its rulemaking procedures to accurately reflect the rulemaking procedures currently in use. This revision clarifies delegations of authority and removes references to hearing officers, which the Coast Guard no longer uses in its regulatory process. It also clarifies who is designated to receive service of process and requests to testify on behalf of members and employees of the Coast Guard.

DATES: This rule is effective on June 30, 1995.

ADDRESSES: Unless otherwise indicated, documents referred to in this preamble are available for inspection or copying at the office of the Executive Secretary, Marine Safety Council (G-LRA/3406), U.S. Coast Guard Headquarters, 2100 Second Street SW., room 3406, Washington D.C. 20593-0001 between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays. The telephone number is (202) 267-1477.

FOR FURTHER INFORMATION CONTACT: LT R. Goldberg, Staff Attorney, Regulations and Administrative Law Division, Office of Chief Counsel, U.S. Coast Guard Headquarters, (202) 267-6004.

SUPPLEMENTARY INFORMATION:

Drafting Information

The principal persons involved in drafting this document are LT R. Goldberg, Project Manager, Office of Chief Counsel, and CDR T. Cahill, Project Counsel, Office of Chief Counsel.

Background and Purpose

The Coast Guard recently completed an extensive review of its regulatory process. That review, which included a public meeting on September 20, 1993, resulted in a number of changes. Among these changes is greater Coast Guard emphasis on providing increased opportunities for public involvement in rulemaking and a greater emphasis on internal Coast Guard accountability. These changes are reflected in a new Coast Guard Headquarters Instruction

which was recently signed by the Chief Counsel.

The provisions of 33 CFR subpart 1.05, describing the Coast Guard's rulemaking procedures, have not been revised since 1976 and do not reflect current Coast Guard rulemaking practices and procedures. For example, the current § 1.05-15 provides that public hearings are conducted by a “hearing officer or panel of officers”. This procedure is no longer used. This type of outmoded provision in Subpart 1.05 may mislead the public.

The subpart is reorganized and revised to provide guidance to the public regarding a variety of Coast Guard procedures including delegations of rulemaking authority by office, submissions of petitions for rulemaking, and internal rulemaking procedures. Additionally, as part of the revision and reorganization, provisions that are currently in subpart 1.05 but properly belong in other areas, are moved.

Subpart 1.05 is being revised to more accurately reflect and provide better guidance to the public on current Coast Guard rulemaking procedures. As part of this revision, all references to hearing officers are deleted as the Coast Guard no longer follows this procedure for rulemaking. Section 1.05-1 is amended to clarify rulemaking delegations to Coast Guard District Commanders, office chiefs at Coast Guard Headquarters, and Captains of the Port. The changes also clarify that, in addition to the authorities previously listed in § 1.05-1, both the Chief, Office of Navigation Safety and Waterway Services, and the Chief, Office of Marine Safety, Security, and Environmental Protection may make certifications under section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 605) for the rules that they issue. References to the delegations of authority given to office chiefs, Coast Guard Headquarters, the delegation to District Commanders to establish special local regulations, and the delegation to District Commanders and Captains of the Port to establish safety and security zones, have been added.

Delegations that do not involve rulemaking authority are moved to more appropriate parts of the Code of Federal Regulations. The reference to the delegation of authority to the Chief, Office of Navigation Safety and Waterway Services to grant exemptions from the provisions of the Vessel Bridge-to-Bridge Radiotelephone Act, previously in § 1.05-1(c)(1), is moved to 33 CFR part 26, Vessel Bridge-to-Bridge Radiotelephone Regulations. The reference to the delegation of authority to each Coast Guard District